

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7397

BILL NUMBER: SB 316

NOTE PREPARED: Apr 2, 2007

BILL AMENDED:

SUBJECT: Definition of Knowing.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. C. Brown

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: This bill defines various forms of the word "know" for purposes of the false claims act and for statutes regarding improper Medicaid payments.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues: *Summary:* The fiscal impact of this bill would depend upon the number of false claims actions that might be filed by a whistleblower and the size of the recovery. This bill is intended to bring the state into compliance with the federal Deficit Reduction Act of 2006. State statutes compliant with the federal requirements qualify the states to retain an additional 10% of any federal Medicaid money collected. (Any recoveries of Medicaid monies include returning the federal share of the funds - currently about 62% in Indiana.) If the statute is compliant, the state would return approximately 52% instead of 62% of any recovery filed under the false claims statute.

Background - False Claims and Whistleblower Protection: This act, passed by the General Assembly as HEA 1501-2005, created a new civil cause of action against persons who knowingly or intentionally:

- (1) present a false claim to the state for payment or approval;
- (2) make or use a false record or statement to obtain payment or approval of a false claim from the state;
- (3) with intent to defraud the state, deliver less money or property to the state than the amount recorded on the certificate or receipt the person receives from the state;
- (4) with intent to defraud the state, authorize issuance of a receipt without knowing that the information on

the receipt is true;

(5) receive public property as a pledge of an obligation on a debt from an employee who is not lawfully authorized to sell or pledge the property;

(6) make or use a false record or statement to avoid an obligation to pay or transmit property to the state;

(7) conspire with another person to perform an act described in subdivisions (1) through (6); or,

(8) cause or induce another person to perform an act described in subdivisions (1) through (6).

(These provisions do not apply to claims concerning Income Tax under IC 6-3.)

The act also provides that the person who initially files the false claims complaint is entitled to a portion of the proceeds of the action if the state prevails.

Background - Medicaid Fraud Unit: The Indiana Medicaid Fraud Unit is located within the Attorney General's Office. The Medicaid Fraud Unit mainly conducts criminal investigations of Medicaid providers. The Director of the Unit reported that they are currently investigating one in-state case and participating in seven multi-state false claims cases. In CY 2006, the Medicaid Fraud Unit opened 277 investigations and referred an estimated 105 cases for prosecution.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Medicaid Fraud Unit, Attorney General's Office; Office of Medicaid Policy and Planning, Family and Social Services Administration.

Local Agencies Affected:

Information Sources: Alan Pope, Director, Medicaid Fraud Unit; Family and Social Services Administration.

Fiscal Analyst: Kathy Norris, 317-234-1360.